

CO TO JUDGE PM

FILED  
LODGED  
APR 30 2002 PM  
SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

Hon. John C. Coughenour  
FILED  
LODGED  
APR 30 2002  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVID F. POTTER,

Plaintiff,

v.

CITY OF SEATTLE, et al.,

Defendants.

NO. C01-1935C (BJR)

WTO Proceeding

MOTION, AFFIDAVIT AND  
ORDER OF DISMISSAL WITHOUT  
PREJUDICE

Noted for Motion Calendar:  
Date of Filing

I. Motion

COMES NOW plaintiff David F. Potter, by and through his attorney, John R. Muenster, and moves the Honorable Court for an order dismissing the above-entitled action without prejudice, because it appears that a King County police officer and King County are the proper defendants in this action.

MOTION, AFFIDAVIT AND ORDER OF  
DISMISSAL WITHOUT PREJUDICE- 1

**MUENSTER & KOENIG**  
JOHN R. MUENSTER, INC., P.S.  
999 THIRD AVE., SUITE 4100  
SEATTLE, WASHINGTON 98104  
(206) 467-7500  
FAX: (206) 467-0101

*Chz BJR KC JM*

*B*

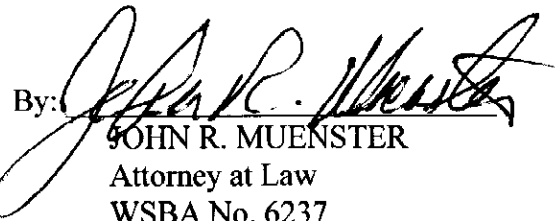
*3*

1 THIS MOTION is based upon the records, files and proceedings heretofore had herein,  
2  
3 and upon the subjoined affidavit of counsel.

4 DATED this the 27 day of April, 2002.

5 Respectfully submitted,

6 MUENSTER & KOENIG

7  
8 By:   
9 JOHN R. MUENSTER  
10 Attorney at Law  
11 WSBA No. 6237  
12 Of Attorneys for Plaintiff

13 II. Affidavit

14 STATE OF WASHINGTON )  
15 ) ss:  
16 COUNTY OF KITSAP )

17 JOHN R. MUENSTER, being duly sworn, deposes and says:

18  
19 1. I am retained counsel for plaintiff David F. Potter in the above-entitled action and  
20 make this affidavit in that capacity. I am familiar with the records, files and proceedings  
21 heretofore had herein.


22 2. Based on further work in this case, I now believe that Mr. Potter was pepper-  
23 sprayed by a King County police officer, rather than a Seattle police officer, in connection with  
24 the events described in the complaint.  
25

26  
27 MOTION, AFFIDAVIT AND ORDER OF  
28 DISMISSAL WITHOUT PREJUDICE- 2


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3. Accordingly, the above-entitled action should be dismissed without prejudice.

DATED this the 23<sup>rd</sup> day of April, 2002.

  
JOHN R. MUENSTER

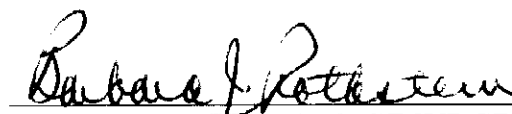
SUBSCRIBED AND SWORN TO before me this the 23<sup>rd</sup> day of April, 2002.

  
NOTARY PUBLIC in and for the State of Washington  
Residing at Tukwila, Washington  
My commission expires: 3/13/03

III. Order

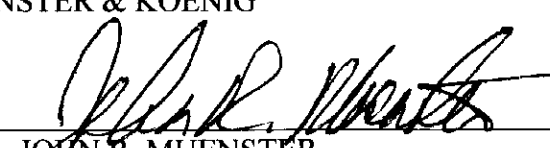
Based upon the foregoing motion and affidavit, the Court hereby orders that the above-entitled action be, and the same hereby is, dismissed without prejudice.

DATED this the 30<sup>th</sup> day of April, 2002.

  
UNITED STATES DISTRICT JUDGE

Presented by:

MUENSTER & KOENIG

By:   
JOHN R. MUENSTER  
Attorney at Law  
WSBA No. 6237  
Of Attorneys for Plaintiff David F. Potter

MOTION, AFFIDAVIT AND ORDER OF  
DISMISSAL WITHOUT PREJUDICE- 3

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